

Filed for intro on 11/04/99

SENATE BILL 36 of the Second Extraordinary Session  
By Rochelle

AN ACT to enact "The Comprehensive Tax Reform Law of 1999" and to amend Titles 7, 12, 30, 57 and 67. This act makes appropriations for fiscal years 1999-2000 and 2000-2001 to administer, enforce and effectuate its purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-2004(2)(B), is amended by deleting the words "corporation's" and "corporation" wherever they appear and substituting instead the words "person's" or "person".

SECTION 2. Tennessee Code Annotated, Section 67-4-2004, is amended by adding the following new subsection:

( ) "General partnership" means a partnership in which all partners, as defined by state law, are fully liable for the debts of, or the claims against, the partnership. For purposes of this subsection, partners may be "fully liable" even though one or more persons or individuals dealing with the partnership have by contract agreed to limit their claims against one or more partners or against the partnership as a whole.

SECTION 3. Tennessee Code Annotated, Section 67-4-2004, is amended by deleting subdivision (9) in its entirety and substituting instead the following:

(9) "Gross Receipts", "Total Gross Receipts", "Receipts, and "Total Receipts" shall mean, within the context of the statute in which used, all receipts from whatever sources derived before any deductions, but not including actual sales returns and allowances.

SECTION 4. Tennessee Code Annotated, Section 67-4-2004, is amended by deleting subdivision (15) in its entirety and substituting instead the following:

(15) "Not-for-profit" means any person described in Sections 401, 408, 408A, 409, 501, 526, 527, 528, 529 or 530 of the Internal Revenue Code, as amended from time to time.

SECTION 5. Tennessee Code Annotated, Section 67-4-2006(a)(3), is amended by deleting the words and letters "(b), (c) and (d)" and substituting instead the words and letters "(b) and (c) of this section".

SECTION 6. Tennessee Code Annotated, Section 67-4-2006(a)(6), is amended by deleting the words "other than a decedent's estate" in subdivision (6).

SECTION 7. Tennessee Code Annotated, Section 67-4-2006(b)(1), is amended by deleting subdivision (F) in its entirety and substituting instead the following:

(F) Any gross premiums tax deducted in determining net earnings but taken as a credit against the excise tax under the provisions of Section 67-4-2009(1).

SECTION 8. Tennessee Code Annotated, Section 67-4-2007(a), is amended by deleting the last sentence thereof and by substituting the following new sentences:

Notwithstanding the fact that a person is not-for-profit, such person shall be subject to excise tax on all of its Tennessee net earnings to the extent such earnings constitute unrelated business taxable income as defined in Section 512 of the Internal Revenue Code or are otherwise subject to income taxes under Subtitle A of such Code.

Notwithstanding the fact that a person is otherwise exempted from the excise tax, such person shall be subject to excise tax on all of its Tennessee net earnings that are attributable to any activities unrelated to and outside the scope of the activities that give it an exemption status.

SECTION 9. Tennessee Code Annotated, Section 67-4-2007(b), is amended by adding the following language:

A person doing business in Tennessee without incorporating, domesticating, qualifying or otherwise registering in Tennessee, or doing business in Tennessee while its charter, domestication, qualification or other registration is forfeited, revoked or suspended, shall not be relieved from filing a return and paying the excise tax levied by this part for each tax year that it does business in Tennessee.

SECTION 10. Tennessee Code Annotated, Section 67-4-2009(4)(A), is amended by deleting subdivision (ii) and substituting instead the following:

(ii) "Computer", "computer network", "computer software", or "computer system" as defined by Section 39-14-601, and any peripheral devices, including, but not limited to, hardware, such as printers, plotters, external disc drives, modems, and telephone units, purchased by a taxpayer in the process of making the "required capital investment" in Tennessee described in Section 67-4-2109(c)(1)(C), if as a result of making such purchase and meeting the other requirements set forth in Section 67-4-2109(c), the taxpayer qualifies for the job tax credit provided therein.

SECTION 11. Tennessee Code Annotated, Section 67-4-2015(b)(1) is amended by deleting the first sentence thereof and substituting the following: "Every taxpayer, who has a combined franchise and excise tax liability of five thousand dollars (\$5000) or more for the current tax year, shall make four (4) equal quarterly estimated franchise and excise tax payments for its current tax year.

SECTION 12. Tennessee Code Annotated, Section 67-4-2015(d), is amended by adding the following new sentence:

Notwithstanding any provision of law to the contrary, a taxpayer that has timely made four (4) quarterly estimated franchise and excise tax payments, each of which equals at least twenty-five percent (25%) of the current year's franchise and excise tax liability, shall not be assessed a deficiency penalty with regard to any quarterly payment.

SECTION 13. Tennessee Code Annotated, Section 67-4-2015(g), is amended by deleting in their entirety the words, numbers and punctuation “one hundred percent (100%)” wherever they appear and substituting instead the words, numbers and punctuation “ninety percent (90%)”.

SECTION 14. Tennessee Code Annotated, Section 67-4-2105, is amended by deleting subsection (a) in its entirety and substituting instead the following:

(a) All persons doing business in Tennessee, including any limited liability company regardless of how it is treated for federal income tax purposes, or any person exercising the corporate franchise, except for those having not-for-profit status or otherwise exempt from the franchise tax under the provisions of subsection (b) below, shall pay to the commissioner of revenue annually a privilege tax in addition to all other taxes, the rate and measure of which are hereinafter set forth. The tax shall be paid for the privilege of doing business in Tennessee, and shall be in addition to all other taxes levied by any other statute. Notwithstanding any provision of law to the contrary, a not-for-profit entity shall be subject to the franchise tax on all of its Tennessee net worth or real or tangible personal property owned or used, as the case may be, that is attributable to activities subject to income taxes under Section 512 or any other provision of Subtitle A of the Internal Revenue Code. Notwithstanding any provision of law to the contrary, a taxpayer that is exempted from the franchise tax shall be subject to such tax on all of its Tennessee net worth or real or tangible personal property owned or used, as the case may be, that is attributable to any activities that are unrelated to and outside the scope of the activities that gave the entity its exempt status.

SECTION 15. Tennessee Code Annotated, Section 67-4-2105(c), is amended by adding the following language:

A person doing business in Tennessee without incorporating, domesticating, qualifying or otherwise registering in Tennessee or doing business in Tennessee while

its charter, domestication, qualification or other registration is forfeited, revoked or suspended shall not be relieved from filing a return and paying the franchise tax levied by this part for each tax year that it does business in Tennessee.

SECTION 16. Tennessee Code Annotated, Section 67-4-2119, is amended by adding at the end of the section the following new language:

A taxable entity that is incorporated, domesticated, qualified or otherwise registered to do business in Tennessee but is, or has become, inactive in Tennessee, or whose charter, domestication, qualification or other registration is forfeited, revoked or suspended without the entity being properly dissolved, surrendered, withdrawn, canceled or otherwise properly terminated, shall not be relieved from filing a return and paying the franchise tax (which shall be no less than the one hundred dollar (\$100) minimum) levied by this part for each tax year.

SECTION 17. Tennessee Code Annotated, Section 67-4-2106, is amended by adding the following new subsections immediately following subsection (b):

(c) In addition to the franchise tax levied by this part, any corporation that has a Tennessee charter or certificate of authority or that is doing business in Tennessee and is treated as a subchapter S corporation for federal income tax purposes shall pay an annual fee equal to fifty dollars (\$50) per shareholder to the department of revenue with the minimum fee being three hundred dollars (\$300) and the maximum fee being three thousand dollars (\$3,000).

(d) Notwithstanding anything to the contrary, for a subchapter S corporation that has a Tennessee charter or certificate of authority but was completely inactive in Tennessee and owned no property in Tennessee during its last fiscal year, the fee imposed by subsection (c) above shall be three hundred dollars (\$300) regardless of the number of shareholders.

(e) The fee imposed by subsection (c) or subsection (d) above shall be due the fifteenth (15th) day of the fourth (4th) month following the close of the S corporation's tax year and shall be paid notwithstanding the fact that the S corporation is doing business in Tennessee in corporate form but without a charter or certificate of authority, or the fact that the S corporation's charter or certificate of authority has been forfeited, revoked or suspended without being properly dissolved or withdrawn.

(f) The commissioner of revenue has the power to establish procedures, promulgate rules and regulations and publish forms for the payment of the fee imposed by subsections (c), (d) and (e) of this section.

SECTION 18. Tennessee Code Annotated, Section 67-4-2109, is amended by adding the following new subsection (e) immediately following subsection (d) and relettering the remaining subsections accordingly:

(e) A credit for the fee paid to the secretary of state or to the department of revenue pursuant to Section 48-247-103(d) or Section 67-4-2106(c), (d) or (e) shall be allowed against the tax levied by this part. The credit shall be taken on the franchise tax return filed for the tax year in which the fee was paid. Any unused credit shall not be subject to refund or to carryover to a subsequent tax year.

SECTION 19. The provisions of this act shall apply to all tax years beginning on or after July 1, 1999.

SECTION 20. This act shall take effect upon becoming a law, the public welfare requiring it.